

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

RACHEL HENDRICK,)
)
Plaintiff,)
)
v.) Docket no. 2:09-cv-139-GZS
)
ALMAR, INC. d/b/a CODY'S,
ORGINAL ROADHOUSE, et al.)
)
Defendants.)

ORDER ON MOTION FOR ENTRY OF DEFAULT

Before the Court is Plaintiff's Motion for Entry of Default Against Defendant The Farmhouse, Inc. ("Farmhouse") (Docket # 12), which was filed on July 15, 2009. Farmhouse opposes the Motion but admits that it did not answer the Plaintiff's Amended Complaint (Docket # 9) by the July 14, 2009 deadline. Rather, it incorrectly claims that the Motion to Dismiss filed by Defendant Almar, Inc. ("Almar") on June 8, 2009 (Docket # 5) tolled the answer deadline for Farmhouse since "the jurisdictional issue raised in [that] Motion to Dismiss applies with equal weight to [Farmhouse]." (Def.'s Resp. (Docket # 13) at 2.) While the Court takes no position on the merits of this argument, the fact remains that if Farmhouse wants any ruling on Almar's Motion to Dismiss to extend to it, it must formally join that motion – an action that it should have taken promptly upon being served with Plaintiff's Amended Complaint and no later than July 14, 2009.

Despite this unexcused failure to comply with the answer deadline, the Court believes that it would be inappropriate to enter a default against Farmhouse at this time in light of its response and the general practice of disfavoring defaults given the potential to resolve a case on

its merits. Therefore, Plaintiff's Motion for Entry of Default is DENIED WITHOUT PREJUDICE and Farmhouse is hereby ORDERED to respond to Plaintiff's Amended Complaint by filing an answer or other appropriate motion on or before July 31, 2009.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 23rd day of July, 2009.